

REMARKS

Entry of the foregoing, reexamination and reconsideration of the subject application are respectfully requested in light of the amendments above and the comments which follow.

As correctly noted in the Office Action Summary, claims 10-18 were pending. By the present response, claims 10 and 18 have been amended, claims 11, 12 and 17 canceled, and claims 19-21 have been added. Thus, upon entry of the present response, claims 10, 13-16 and 18-21 remain pending and await further consideration on the merits.

Support for the foregoing amendments can be found, for example, in at least the following locations in the original disclosure: page 2, lines 1-3; page 7, lines 19-23; and the original claims.

OBVIOUSNESS-TYPE DOUBLE PATENTING

Claims 10, 13, 14 and 18 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11, 15, 17 and 20 of copending U.S. Patent Application No. 11/547,154 on the grounds set forth in paragraph 2 of the Official Action.

This rejection is respectfully traversed. As set forth in MPEP §804, an obviousness-type non-statutory double patenting rejection is appropriate only if the rationale in support of such a rejection satisfies the factual inquiries set forth in *Graham v. John Deere*. In the grounds for rejection set forth in paragraph 4 of the Official Action, the sole supporting rationale for the obviousness-type double patenting rejection is:

It is the Examiner's position that it would have been *prima facie* obvious to use a second phosphor emitting a green light to provide a white light in the copending Application No. (U.S. 11/547,154).

Applicants respectfully traverse the above-quoted unsupported allegation regarding *prima facie* obviousness. It is respectfully submitted that the above-stated rationale clearly fails to establish a *prima facie* case of obviousness that complies with the requirements of the *Graham v. John Deere* factors.

However, solely in the interest of advancing prosecution, Applicants submit herewith a duly executed Terminal Disclaimer over copending U.S. Patent Application No. US 11/547,154. Thus, the above-mentioned obviousness-type double patenting rejection has been obviated.

ALLOWABLE SUBJECT MATTER

Applicants note with appreciation the indication that claims 11, 12 and 15-17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. §112, second paragraph, as noted in paragraph 6 of the Official Action.

By the present response, Applicants have submitted newly presented claims 19-21. Claim 19 corresponds to claim 11 rewritten in independent form, claim 20 corresponds to claim 12 rewritten in independent form, and claim 21 corresponds to claim 17 rewritten in independent form. Thus, an indication of the allowability of claims 19-21 is respectfully requested.

CONCLUSION

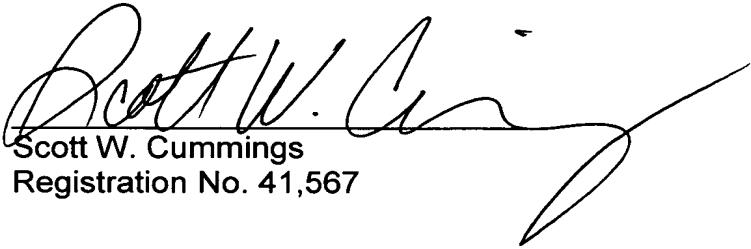
From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

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Date: October 30, 2008

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